

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 94-193

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

1. Statutory Authority

Although changes made in 1993 Wisconsin Act 16 did affect the Intoxicated Driver Program (IDP) under ss. 343.30 (1q) and 343.305 (9), Stats., those subsections were not specifically affected by Act 16 or, except for Acts 315 and 317 (which are not apropos to this rule), by any other session law enacted during the 1993-94 Legislative Session. The department should make reference to the specific provisions in Act 16 or any other session law that required the changes in the rule. The references to ss. 343.30 (1q) and 343.305 (9), Stats., are not adequate.

Also, in SECTION 1, where is the authority for the department to add “within the limits of available funding” to s. HSS 62.02?

2. Form, Style and Placement in Administrative Code

a. In SECTIONS 2 and 3, instead of repealing and recreating ss. HSS 62.02 (2) and 62.03 (1) and (2), these provisions should be amended to clearly indicate which parts have been changed. For example, it appears that most of s. HSS 62.02 (2) simply repeats the current rule. Only those paragraphs and subdivisions which amend the current rule should be cited, using the amendment format, not the “repeal and recreate” format. This comment also applies to SECTION 6.

b. In s. HSS 62.02 (2) (a) and (b), why were “shall assign” and “shall organize” changed to “may assign” and “may organize”? The use of “may” implies that the board does not have to

take these actions. If this is what was intended, what is the authority for this change? What happens if the board decides not to take these actions?

- c. In s. HSS 62.03 (2) (c), “interviewing” should be “interview.”
- d. In s. HSS 62.06 (3), who develops the “uniform” reporting requirements?
- e. In s. HSS 62.07 (1) (a), “~~the~~ offer” should be “offer ~~the~~.”

4. Adequacy of References to Related Statutes, Rules and Forms

- a. In the analysis, it appears that the citation “343.305 (9) (c) 2” should be replaced by a citation to “343.305 (10) (c) 2.” Also, it appears that s. 343.655, Stats., cited as a statute interpreted by the rule, does not exist.
- b. In the effective date clause, the correct citation is s. 227.22 (2) (intro.), Stats.